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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,463	09/10/2004	David Selwood	GJE-6595	8237

23557 7590 11/29/2007
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EXAMINER

DUTT, ADITI

ART UNIT	PAPER NUMBER
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1649

MAIL DATE	DELIVERY MODE
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11/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/507,463	SELWOOD ET AL.	
	Examiner	Art Unit	
	Aditi Dutt	1649	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 7, 13, 14.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


JEFFREY STUCKER
SUPERVISORY PATENT EXAMINER

Continuation of 11: Does not place the application for condition of allowance because:

Enablement, 112 first paragraph

The rejection of claims 1, 7, 13 and 14 under 35 U.S.C. 112, first paragraph, is maintained, for reasons of record in the the previous Office Action dated 31 May 2007.

Applicant contends that the bicyclic form of the peptide limits the number of fragments, thus covering a "finite" number of peptides, which renders routine experimentation, and hence is enabled. Applicant's arguments are not persuasive because the claims still recite "a" fragment of the claimed peptide of SEQ ID NO: 2, which is interpreted as "any" fragment comprising of as little as 2 or more amino acids of SEQ ID NO: 2. Although Applicant asserts that the claimed invention encompasses only fragments having 1-6 amino acids removed from the ends (interpreted by the Office as both ends), while still retaining the claimed functional characteristics, this assertion does not read on the claim limitations. The specification is not enabled for any fragment of the bicyclic peptide of SEQ ID NO: 2 having neuropilin-1 (NP-1) antagonist activity, for reasons stated in the last Office Action dated 31 May 2007, (pages 3-5). As stated in the previous Office Action, it is reiterated that undue experimentation would be required to generate the infinite number of fragments of the claimed peptide,, and screen the same for NP-1 antagonist activity.

Written description, 112 first paragraph

The rejection of claims 1, 7, 13 and 14 under 35 U.S.C. 112, first paragraph, is maintained, for reasons of record in the the previous Office Action dated 31 May 2007.

Applicant's arguments with respect to claims 1, 7, 13 and 14, are not persuasive, because the brief description of the specification of one sequence of EG3287 peptide (SEQ ID NO: 2), is not adequate written description of an entire genus of functionally equivalent polypeptides which incorporate all fragments of EG3287 peptide, see last Office Action dated 31 May 2007, (page 5).

The Office requests clarification on Applicant's contention of the "entire genus" that includes about "half dozen peptides".

103(a)

The rejection of claims 1, 7, 13 and 14 under 35 U.S.C. 103(a), is maintained, for reasons of record in the the previous Office Action dated 31 May 2007.

Applicant asserts that the combined references of Li and Achen do not render obvious the subject matter of the Applicant's claims. Specifically, the references allegedly do not teach the claimed sequence, the utility of the shorter sequences, and the bicyclic feature of the claimed sequence. Applicant's arguments have been fully considered but have not been found to be persuasive, for reasons stated in the previous Office Action. Applicant requested clarification on the statement of 100% identity. The Office has interpreted the phrases "having the amino acid sequence" and "has the amino acid sequence" as "comprising" or open language. Thus, as stated in previous Office Actions (dated 30 October 2006 and 31 May 2007), Li and Kagen teach a VEGF165 protein fragment (amino acids 24-51), that is 100% identical to SEQ ID NO: 2 (also see earlier submitted Appendix A for sequence alignment). Therefore, the peptide taught by the reference comprises the sequence of SEQ ID NO: 2, in the region of amino acids 24-51 and is 100% identical therein. Furthermore, as stated in the previous Actions, Achen teaches bicyclic VEGF peptides, and the utility of cyclization. Lastly, as stated in the Office Action dated 31 May 2007 (page 6, para 16), the peptide cited in the reference plays a role in the prevention and treatment of tumors, coinciding with the stated utility of the claimed peptide in the instant specification (page 4, lines 8-9). Thus, claims 1, 7, 13 and 14, stay rejected as prima facie obvious over the combined teachings of Li and Achen.